

ASSEMBLY BILL

No. 495

Introduced by Assembly Member Garcia

February 14, 2003

An act to amend Section 647.7 to the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 495, as introduced, Garcia. Invasion of privacy: concealed cameras.

Existing law makes it a misdemeanor to secretly videotape, film, photograph, or record by electronic means, another, identifiable person under or through his or her clothing, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, with the intent to arouse, appeal to, or gratify the lust, passions, or sexual desires of that person and invade the privacy of that other person, under circumstances in which the other person has a reasonable expectation of privacy.

This bill would provide that any person who violates the above provision for the purpose of viewing the body of, or the undergarments worn by, a minor, shall, as an enhancement, be punished by an additional fine of \$25,000. By creating an enhancement for an existing crime, this bill would impose a state-mandated local program on local governments.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 647.7 of the Penal Code is amended to
2 read:

3 647.7. (a) In any case in which a person is convicted of
4 violating subdivision (i) or (k) of Section 647, the court may
5 require counseling as a condition of probation. Any defendant so
6 ordered to be placed in a counseling program shall be responsible
7 for paying the expense of his or her participation in the counseling
8 program as determined by the court. The court shall take into
9 consideration the ability of the defendant to pay, and no defendant
10 shall be denied probation because of his or her inability to pay.

11 (b) Every person who, having been convicted of violating
12 subdivision (i) or (k) of Section 647, commits a second or
13 subsequent violation of subdivision (i) or (k) of Section 647, shall
14 be punished by imprisonment in a county jail not exceeding one
15 year, by a fine not exceeding one thousand dollars (\$1,000), or by
16 both that fine and imprisonment.

17 (c) *Any person who violates paragraph (2) of subdivision (k) of*
18 *Section 647 for the purpose of viewing the body of, or the*
19 *undergarments worn by, a minor, shall, in addition to any penalty*
20 *imposed under Section 647, be punished by an additional fine of*
21 *twenty-five thousand dollars (\$25,000).*

22 SEC. 2. No reimbursement is required by this act pursuant to
23 Section 6 of Article XIII B of the California Constitution because
24 the only costs that may be incurred by a local agency or school
25 district will be incurred because this act creates a new crime or
26 infraction, eliminates a crime or infraction, or changes the penalty
27 for a crime or infraction, within the meaning of Section 17556 of
28 the Government Code, or changes the definition of a crime within
29 the meaning of Section 6 of Article XIII B of the California
30 Constitution.

